

IN THE MATTER OF:

San Jacinto River Waste Pits

Superfund Site
Pasadena, Texas

International Paper Company, Inc.
&
McGinnes Industrial Management
Corporation

RESPONDENTS

)
)
)
)
)
)
)
**UNILATERAL ADMINISTRATIVE
ORDER FOR REMEDIAL
INVESTIGATION/FEASIBILITY
STUDY**

)
)
)
)
)
)
)
U.S. EPA REGION 6
CERCLA Docket No. 06-03-10

)
)
)
)
)
)
)
Proceeding under Sections 106 (a)
of the Comprehensive Environmental
Response, Compensation, and Liability Act,
as amended, 42 U.S.C. § 9606(a).

**UNILATERAL ADMINISTRATIVE ORDER
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

I. INTRODUCTION

1. This Administrative Order ("Order") is being issued by the United States Environmental Protection Agency ("EPA") to the above-captioned Respondents (hereinafter, the "Respondents"). The Order concerns the preparation and performance of a Remedial Investigation and Feasibility Study (hereinafter, the "RI/FS") concerning the San Jacinto River Waste Pits Superfund Site (hereinafter, the "Site") in Pasadena, Harris County, Texas.

II. JURISDICTION

2. This Order is issued to Respondents by EPA under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580 (52 Fed. Reg. 2923, January 23, 1987), and was further delegated to EPA Regional Administrators on September 13, 1987 by EPA Delegation Nos. 14-14-A and 14-14-B, and re-delegated by the Regional Administrator to the Director, Superfund Division, EPA Region 6, by EPA Delegations R6-14-14-A and R6-14-14-B (August 14, 1995).

III. PARTIES BOUND

3. This Order shall apply to and be binding upon the Respondents and their successors and assigns. Respondents are jointly and severally responsible for carrying out all actions required of them under this Order. No change in the ownership or corporate status of any Respondent or of its facilities or the Site shall alter any Respondent's responsibilities under this Order.
4. Respondents shall provide a copy of this Order to any subsequent owners or successors before a controlling interest in ownership rights or stock or assets in a corporation are transferred. Respondents shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any work performed under this Order, within fourteen (14) days after the EFFECTIVE DATE of this Order or the date of retaining their services, whichever is later. Respondents shall condition any such contracts upon satisfactory compliance with this Order. Notwithstanding the terms of any contract, Respondents are responsible for compliance with this Order and for ensuring that their employees, contractors, consultants, subcontractors and agents comply with this Order.
5. The activities conducted under this Order are subject to approval by EPA and shall provide all appropriate information for the RI/FS and for a Record of Decision that is consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300. The activities conducted by or on behalf of Respondents under this Order shall be conducted in compliance with all applicable EPA guidance, policies, and procedures and any amendments there.

IV. FINDINGS OF FACT

6. The Site, as indicated in Attachment A, is in Harris County in the State of Texas. The Site itself has no specific street address. The Site is comprised of an area of land and an area of the San Jacinto River bottom, i.e., river sediment that is contaminated with certain hazardous materials from released waste paper mill sludge. The Site is located in an area where the Interstate Highway 10 Bridge crosses over the San Jacinto River, east of the City of Houston between two unincorporated areas known as Channelview and Highlands.
7. The Site includes an abandoned 20-acre tract of land ("Tract") consisting of three waste ponds containing hazardous substances partially submerged in the San Jacinto River as well as wherever those hazardous substances have been deposited, placed, or otherwise come to be located. Aerial photographs as early as the 1970s indicate the Tract inundated by the San Jacinto River.
8. Currently, the Tract is owned by Virgil C. McGinnes Trustee and is bounded on the south by Interstate Highway 10, on the east by the San Jacinto River main channel, and on the north and west by shallow water off the River's main channel. Virgil McGinnes is deceased, but was the officer, director, and major shareholder of McGinnes Industrial Maintenance Corporation ("MIMC") during the time hazardous substances were disposed

at the Site.

9. MIMC was formed on September 3, 1965. Ten days later, MIMC acquired the assignment of an exclusive waste disposal contract to dispose of waste from the Champion Papers, Inc (“Champion”) paper mill in Pasadena, Texas. MIMC removed waste materials from the Champion plant, transported the paper waste materials by MIMC barges, and unloaded the waste into ponds surrounded by levees at the Tract from September 13, 1965 through May 6, 1966.
10. According to Champion’s business records, Champion’s Pasadena paper mill produced pulp and paper using chlorine as a bleaching agent. These processes used various forms of chlorine, including liquid chloride, aluminum chloride, and sodium chlorate. The pulp bleaching process forms polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans as a by-product and those by-products are found in the paper mill sludge generated from this process.
11. The waste paper sludge was placed in three ponds on the Tract. Waste pond 1 is located on the western portion of the Tract totaling 132,386 square feet. Waste pond 2 and waste pond 3 are on the eastern portion of the Tract totaling 46,182 square feet and 188,641 square feet respectively.
12. On December 27, 1965, the Harris County Health Department (“HCHD”) observed liquid waste being pumped out of one of the ponds at the Tract directly into the San Jacinto River. On December 28, 1965, the HCHD sent a letter to MIMC and Champion ordering them to stop discharging “black liquor” from the waste ponds into the San Jacinto River. In addition, the HCHD demanded that the levees surrounding the wastes ponds be repaired.
13. A December 30, 1965 internal Champion memo confirmed that water seepage was occurring along the waste ponds’ levees and that two sections of the levee around the western waste pond as well as the levees along the east side of the eastern waste ponds needed reinforcement.
14. In May 1966, the Texas Department of Health (“TDH”) investigated Champion Paper’s waste disposal practices. The TDH noted seepage on the western waste pond and deteriorating levees on the eastern waste ponds. In addition, the TDH noted that storm events had the potential to cover the disposal area with water and wash out the levees.
15. On July 29, 1966, the Texas Water Pollution Control Board (“TWPCB”) granted MIMC permission to release a combination of stabilized waste water and rain water from the waste ponds into the San Jacinto River. The TWPCB noted that the waste ponds would no longer be used for the storage of waste material.
16. Currently, the Tract is inactive and approximately half of the Tract’s surface area, including the abandoned waste disposal ponds, is now submerged below the adjacent San Jacinto River’s water surface.

17. The primary hazardous substances documented at the Site are polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans. Dioxin concentrations as high as 41,300 parts per trillion have been found in soil and sediment samples collected from the Tract's disposal pond areas and from river sediments near the Tract. Sediments contaminated with high levels of dioxin have been found in the San Jacinto River both upstream and downstream from the Tract due to tidal influences.
18. The City of Houston conducted a toxicity study of the Houston Ship Channel including the San Jacinto River published in July 1995. Samples of sediment and fish and crab samples were collected in August 1993 and May 1994 for the study. Sediment samples collected northeast of the Tract indicated extremely high dioxin and furan levels. These dioxin and dibenzofuran levels were the highest values recorded in the entire Houston Ship Channel. In addition, fish and crab samples collected northeast of the Tract and 1 mile downstream from the Tract also indicated extremely high levels of dioxin and dibenzofuran.
19. In January 2004, The Texas Commission on Environmental Quality ("TCEQ") published a study of the Total Maximum Daily Loads ("TMDLs") for Dioxins in the Houston Ship Channel. Samples of sediment and fish tissue were collected in the summer of 2002, fall 2002, and spring 2003. The data collected indicated the continued presence of dioxin contamination in the San Jacinto River surrounding the Tract. In addition, the fish and shellfish tissue samples collected indicated that the health-based standard was exceeded in 97% of fish samples and in 95% of the crab samples. Additional samples in the San Jacinto River surrounding the Tract were collected in the spring of 2004 and confirmed the high dioxin concentrations.
20. On April 14, 2005, the Texas Parks & Wildlife Department ("TPWD") referred the area consisting of the Tract to the U.S. EPA for evaluation under the Hazardous Ranking System as a potential Superfund site. The TPWD submitted a 1982 topographic map and aerial photographs of the Tract indicating much of the land area has been submerged due to subsidence. In addition, the TPWD cited the Houston Ship Channel Toxicity Study and the TMDLs for Dioxins in the San Jacinto River as indication that there was a risk that needed to be addressed at the Tract due to the unusually high dioxin readings collected northeast of the Tract as well as downstream from the Tract.
21. In July 2005, seven samples were collected from the Tract for the Hazard Ranking System Documentation Record (HRS Report). Each sample was found to contain a combination of the following chemicals, also known as, dioxin congeners:
 - 2,3,7,8-Tetrachlorodibenzo-p-dioxin
 - 1,2,3,7,8-Pentachlorodibenzodioxin
 - 1,2,3,4,7,8-Hexachlorodibenzodioxin
 - 1,2,3,6,7,8-Hexachlorodibenzodioxin
 - 1,2,3,7,8,9-Hexachlorodibenzodioxin
 - 1,2,3,4,6,7,8-Heptachlorodibenzodioxin

- 2,3,7,8-Tetrachlorodibenzofuran
- 1,2,3,7,8-Pentachlorodibenzofuran
- 2,3,4,7,8-Pentachlorodibenzofuran
- 1,2,3,4,7,8-Hexachlorodibenzofuran
- 1,2,3,6,7,8-Hexachlorodibenzofuran
- 2,3,4,6,7,8-Hexachlorodibenzofuran
- 1,2,3,7,8,9-Hexachlorodibenzofuran
- 1,2,3,4,6,7,8-Heptachlorodibenzofuran
- 1,2,3,4,7,8,9-Heptachlorodibenzofuran

From these seven samples, the highest concentration of each dioxin congener (from any of samples) is listed below:

- 2,3,7,8-Tetrachlorodibenzo-p-dioxin = 18,500 parts per trillion (SE-08)
- 1,2,3,7,8-Pentachlorodibenzodioxin = 363 parts per trillion (SE-09)
- 1,2,3,4,7,8-Hexachlorodibenzodioxin = 4.83 parts per trillion (SE-09)
- 1,2,3,6,7,8-Hexachlorodibenzodioxin = 27.9 parts per trillion (SE-09)
- 1,2,3,7,8,9-Hexachlorodibenzodioxin = 10.2 parts per trillion (SE-09)
- 1,2,3,4,6,7,8-Heptachlorodibenzodioxin = 658 parts per trillion (SE-09)
- 2,3,7,8-Tetrachlorodibenzofuran = 41,300 parts per trillion (SE-08)
- 1,2,3,7,8-Pentachlorodibenzofuran = 3,770 parts per trillion (SE-10)
- 2,3,4,7,8-Pentachlorodibenzofuran = 2,330 parts per trillion (SE-10)
- 1,2,3,4,7,8-Hexachlorodibenzofuran = 8,660 parts per trillion (SE-10)
- 1,2,3,6,7,8-Hexachlorodibenzofuran = 2,290 parts per trillion (SE-10)
- 2,3,4,6,7,8-Hexachlorodibenzofuran = 349 parts per trillion (SE-10)
- 1,2,3,7,8,9-Hexachlorodibenzofuran = 656 parts per trillion (SE-10)
- 1,2,3,4,6,7,8-Heptachlorodibenzofuran = 2,360 parts per trillion (SE-10)
- 1,2,3,4,7,8,9-Heptachlorodibenzofuran = 878 parts per trillion (SE-10)

22. Contaminants can be documented entering the San Jacinto River by direct observation. A large portion of the ponds are continually inundated by the San Jacinto River and contaminated sediment within the source area are in direct contact with the river water as documented in the December 1987, December 1989, February 1992, April 1998, June 1999, May 2002, February 2003, and April 2005 aerial photographs of the Tract. There is no containment to prevent the migration of hazardous substances from the waste ponds.
23. Chemical analysis confirms that dioxin and dibenzofuran contaminants are entering the San Jacinto River. Chemical analysis documented the presence of numerous dioxin congeners in the source sediments. In addition, sediment samples collected within the surface waste ponds indicate that concentrations of hazardous substances are present at levels significantly greater than upstream and downstream background levels and in concentrations greater than the corresponding by Contract-Required Quantitation Levels.
24. Routes of exposure include, but are not limited to: Human direct dermal contact with contaminated sediment or water; human ingestion of contaminated sediment or water;

human inhalation of contaminated sediment or water; human direct dermal contact with contaminated ecological receptors; human ingestion of contaminated ecological receptors; and ecological bioaccumulation of contaminants at every trophic level of the food web.

25. Both human and ecological health is threatened by releases of hazardous substances from the Tract. Humans trespass on and around the site to capture ecological receptors for sport and subsistence. Ecological receptors include, but are not limited to: Fish, birds, mammals, amphibians, reptiles, macro-invertebrates, micro-invertebrates, and plants. Ecological health is also threatened by bioaccumulation of hazardous substances released from the north tract/source area at every trophic level of the food chain.
26. Dioxins from natural and anthropogenic (man-made) sources have been widely distributed throughout the environment. Almost every living creature has been exposed to dioxins. Studies have shown that exposure to dioxins at high enough doses may cause a number of adverse health effects.
27. 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) is considered the most toxic of the dioxins and dibenzofurans. Non-2,3,7,8-TCDD dioxins and dibenzofurans are usually expressed as a fraction of the toxicity attributed to 2,3,7,8-TCDD. In addition, chlorinated dibenzo-p-dioxins (CDDs) are generally found together with other structurally related chlorinated chemicals, such as chlorinated dibenzofurans and polychlorinated biphenyls.
28. The most common health effect in people exposed to large amounts of dioxins, in particular 2,3,7,8-TCDD, is chloracne. Chloracne cases have typically been the result of accidents or significant contamination events. Chloracne is a severe skin disease with acne-like lesions that occur mainly on the face and upper body. Other skin effects noted in people exposed to high doses of 2,3,7,8-TCDD include skin rashes, discoloration, and excessive body hair. Changes in blood and urine that may indicate liver damage also are seen in people. Exposure to high concentrations of CDDs may induce long-term alterations in glucose metabolism and subtle changes in hormone levels.
29. In certain animal species, 2,3,7,8-TCDD is especially harmful and can cause death after a single exposure. Exposure to lower levels can cause a variety of effects in animals, such as weight loss, liver damage, and disruption of the endocrine system. In many species of animals, 2,3,7,8-TCDD weakens the immune system and causes a decrease in the system's ability to fight bacteria and viruses. In other animal studies, exposure to 2,3,7,8-TCDD has caused reproductive damage and birth defects. Some animal species exposed to CDDs during pregnancy had miscarriages and the offspring of animals exposed to 2,3,7,8-TCDD during pregnancy often had severe birth defects including skeletal deformities, kidney defects, and weakened immune responses.
30. Several studies suggest that exposure to 2,3,7,8-TCDD increases the risk of several types of cancer in people. Animal studies have also shown an increased risk of cancer from exposure to 2,3,7,8-TCDD.

31. The U.S. Department of Health and Human Services has determined that 2,3,7,8-TCDD may reasonably be anticipated to cause cancer and the World Health Organization has determined that 2,3,7,8-TCDD is a human carcinogen.
32. The Site was proposed for listing on the National Priorities List ("NPL") on September 19, 2007 (72 FR 53509), and was placed on the NPL effective March 19, 2008 (73 FR 14719).
33. The EPA has incurred response costs at or in connection with the Site. As of May 31, 2009, EPA had incurred and paid past response costs at this Site of \$378,863.61.
35. Respondent International Paper Company, Inc. is a corporation incorporated in the state of New York. International Paper Company is the successor to Champion Papers, Inc. who arranged for disposal or treatment of hazardous substances, which were owned or possessed by said company, at the Site.
36. Respondent McGinnes Industrial Maintenance Corporation is a corporation incorporated in the state of Texas. McGinnes Industrial Maintenance Corporation operated the waste disposal facility at the Site. In addition, McGinnes Industrial Maintenance Corporation accepted hazardous substances for transport and selected the Site.
37. On July 17, 2009, EPA sent a Special Notice Letter to the Respondents offering them an opportunity to negotiate and enter into an Administrative Order on Consent ("AOC") covering the performance of an RI/FS of the Site. However, EPA never received a Good Faith Offer in which to begin negotiations of an RI/FS for the Site.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

38. The San Jacinto River Waste Pits Superfund Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
39. Each of the Respondents is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
40. Respondent International Paper Company is the successor to Champion Papers, Inc., who arranged for disposal or treatment of materials containing hazardous substances, which were owned or possessed by said company, which came to be disposed at the Site and is thus a responsible party within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).
41. Respondent McGinnes Industrial Maintenance Corporation operated the waste disposal facility at the time of disposal of hazardous substances at which such hazardous substances were disposed of at the Site, and is accordingly a responsible party within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

42. Respondent McGinnes Industrial Maintenance Corporation accepted hazardous substances for transport to the facility selected by Respondents, within the meaning of Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4).
43. Among the contaminants found at the Site are contaminants, as identified in Section IV of this Order, which are "hazardous substances" as defined by Section 101 (14) of CERCLA, 42 U.S.C. §9601 (14).
44. The conditions described in Section IV of this Order, constitute an actual "release" of hazardous substances from the facility, as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22). In addition, there is a threat of further releases of hazardous substances at and from the Site.
45. The actual or threatened release of one or more hazardous substances from the Site presents an imminent and substantial endangerment to the public health or welfare or the environment.
46. The Remedial Investigation/ Feasibility Study ("RI/FS") required by this Order are necessary to abate an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of hazardous substances at or from the Site, and are not inconsistent with the NCP or CERCLA.
47. The contamination and endangerment at this Site constitute an indivisible injury. The actions required by this Order are necessary to protect the public health, welfare, and the environment.

VI. NOTICE

48. By providing a copy of this Order to the Texas Commission on Environmental Quality ("TCEQ"), EPA is notifying the State of Texas (the "State") that this Order is being issued and that EPA is the lead agency for coordinating, overseeing, and enforcing the response action required by this Order.

VII. DETERMINATION

49. Based on the FINDINGS OF FACT and CONCLUSIONS OF LAW set forth above and the entirety of the administrative record, the Superfund Division Director has determined that the release or threatened release of hazardous substances at the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.

VIII. ORDER

50. Based on the foregoing, Respondents are hereby ordered, jointly and severally, to comply with the following provisions, all documents incorporated by reference into this Order,

and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order.

IX. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or its implementing regulations. Whenever terms listed below are used in this Order or in the documents attached to this Order or incorporated by reference into this Order, the following definitions shall apply:

- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 *et seq.*
- b. "Day" shall mean a calendar day unless otherwise specified. In computing any period of time under this Order, in the event that a submission would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the end of the next business day.
- c. "EPA" shall mean the United States Environmental Protection Agency.
- d. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.
- e. "National Contingency Plan" or "NCP" shall mean the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any amendments thereto.
- e. "Order" shall mean this Unilateral Administrative Order and all appendices attached hereto. In the event of conflict between this Order and any attachments, this Order shall control.
- f. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.
- g. "Parties" shall mean EPA and Respondents.
- h. "Performance Standards" shall mean those substantive requirements, criteria or limitations, identified in the Statement of Work, that the Work required by this Order must attain and maintain.
- i. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).
- j. "Respondents", are parties listed in Appendix A.

- k. "Section" shall mean a portion of this Order identified by a roman numeral and includes one or more paragraphs.
- l. "State" shall mean the State of Texas.
- m. "Statement of Work" or "SOW" shall mean the statement of work for implementation as set forth in Attachment 1 to this Order. The Statement of Work is incorporated into this Order and is an enforceable part of this Order.
- n. "Site" shall mean the San Jacinto River Waste Pits Superfund Site located in Pasadena, Harris County, Texas, encompassing approximately 20.6 acres, partially submerged, tract of land bounded on the south by Interstate Highway 10, on the east by the San Jacinto River main channel, and on the north and west by shallow water off the River's main channel and depicted generally on the map attached as Appendix B.
- o. "TCEQ" shall mean the Texas Commission on Environmental Quality and any successor departments or agencies of the State of Texas.
- p. "TDH" shall mean the Texas Department of Health, currently named the Texas Department of State Health Services, and any successor departments or agencies of the state of Texas.
- q. "United States" shall mean the United States of America.
- r. "Work" shall mean all activities Respondent is required to perform under this Order, including any activities described in the SOW.

X. NOTICE OF INTENT TO COMPLY

- 51. Respondents shall provide, not later than fourteen (14) days after the EFFECTIVE DATE of this Order, written notice to EPA stating whether they will comply with the terms of this Order. If Respondents do not unequivocally commit to perform the Work as provided by this Order, they shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Respondents' written notice shall describe, using facts that exist on or prior to the EFFECTIVE DATE of this Order, any "sufficient cause" defenses asserted by Respondents under Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c)(3). The absence of a response by EPA to the notice required by this paragraph shall not be deemed to be an acceptance of Respondents' assertions.

XI. WORK TO BE PERFORMED

- 52. All Work performed under this Order shall be under the direction and supervision of qualified personnel. Within thirty (30) calendar days of the EFFECTIVE DATE of this

Order, and before the Work outlined below begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. EPA will review Respondents' selection of a project manager according to the terms of Section IX Paragraph 2 of this Order. If EPA disapproves of the selection of the project manager, Respondents shall submit to EPA within five (5) days after receipt of EPA's disapproval of the project manager previously selected, a list of project managers, including primary support entities and staff, which would be acceptable to Respondents. EPA will thereafter provide written notice to Respondents of the names of the project managers that are acceptable to EPA. Respondents may then select any approved project manager from that list and shall notify EPA of the name of the project manager selected within twenty-one (21) days of EPA's designation of approved project managers. During the course of the RI/FS, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

53. Respondents shall conduct the RI/FS in accordance with the provisions of this Order, the attached SOW, CERCLA, the NCP and EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, and guidances referenced in the SOW, as may be amended or modified by EPA. The Remedial Investigation ("RI") shall consist of collecting data to characterize site conditions, determining the nature and extent of the contamination at or from the Site, assessing risk to human health and the environment and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Feasibility Study ("FS") shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum

extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e). Upon request by EPA, Respondents shall submit in electronic form all portions of any plan, report or other deliverable Respondents are required to submit pursuant to provisions of this Order. All work performed under this Order shall be in accordance with the schedules herein, and in full accordance with the schedules, standards, specifications, and other requirements of the Work Plans, as initially approved by EPA, and as they may be amended or modified by EPA. For purposes of this Order, day means calendar day unless otherwise noted in this Order.

54. EPA reserves the right to comment on, modify and direct changes for all deliverables. Respondents must fully correct all deficiencies and incorporate and integrate all information and comments supplied by EPA either in subsequent or resubmitted deliverables.
55. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval for the RI/FS Work Plans. While awaiting EPA approval of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth in this Order.
56. For all remaining deliverables not enumerated above in the previous paragraph, Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.
57. In the event that Respondents amend or revise a report, plan or other submittal upon receipt of EPA comments, if EPA in its discretion subsequently disapproves of the revised submittal or any portion thereof, or if subsequent submittals do not fully reflect EPA's directions for changes related to performance of the RI/FS, EPA retains the right, in its sole discretion, to seek statutory penalties, perform its own studies, complete the RI/FS (or any portion of the RI/FS) under CERCLA and the NCP, and seek reimbursement from the Respondents and/or other potentially responsible parties for its costs; and/or seek any other appropriate relief.
58. In the event that EPA takes over some of the tasks, but not the preparation of the RI and FS reports, Respondents shall incorporate and integrate information supplied by EPA into the final RI and FS reports.
59. The failure of EPA to either expressly approve, disapprove, or comment upon Respondents' submissions within a specified time period(s) shall not be construed as approval by EPA.

60. Respondents shall assure that all work performed, samples taken and analyses conducted conform to the requirements of the RI/FS Work Plans, the EPA-approved QAPP and guidances identified therein. Respondents shall assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures.
61. Respondents shall, prior to any off-Site shipment of hazardous substances from the Site to an out-of-State waste management facility, provide written notification to the appropriate state environmental official in the receiving state and to EPA's Project Coordinator of such shipment of hazardous substances. However, the notification of shipments shall not apply to any such off-Site shipments when the total volume of such shipments will not exceed 10 cubic yards.
- a. The notification shall be in writing, and shall include the following information, where available: (1) the name and location of the facility to which the hazardous substances are to be shipped; (2) the type and quantity of the hazardous substances to be shipped; (3) the expected schedule for the shipment of the hazardous substances; and (4) the method of transportation. Respondents shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state, or to a facility in another state.
 - b. The identity of the receiving facility and state to which any hazardous substances from the Site will be shipped will be determined by Respondents following the award of the contract for the RI/FS. Respondents shall provide all relevant information, including information under the categories noted in subparagraph a., above, on the off-Site shipments, as soon as practical after the award of the contract and before the hazardous substances are actually shipped.

XII. NOTIFICATION AND REPORTING REQUIREMENTS

62. All reports and other documents submitted by Respondents to EPA (other than the monthly progress reports referred to below) which purport to document Respondents' compliance with the terms of this Order shall be signed by a responsible corporate official of one or more of the Respondents; or by the Project Coordinator who has been delegated this responsibility by the Respondents, whose qualifications have been found by EPA to be acceptable pursuant to paragraph 65 of this Order, and who will certify that he/she has been fully authorized by Respondents to submit such a document and to legally bind all Respondents thereto. Notwithstanding such a delegation of responsibility, Respondents shall remain liable for the proper performance of the work required by this Order. For purposes of this Order, a responsible corporate official is an official who is in charge of a principal business function.
63. Until the termination of this Order, Respondents shall prepare and provide EPA with written monthly progress reports which: (1) describe the actions which have been taken toward achieving compliance with this Order during the previous month; (2) include all results of sampling, tests, modeling and all other data (including raw data) received or

generated by or on behalf of Respondents during the previous month in the implementation of the work required hereunder; (3) describe all actions, data and plans which are scheduled for the next two months and provide other information relating to the progress of work as is customary in the industry; (4) include information regarding percentage of completion, all delays encountered or anticipated that may affect the future schedule for completion of the work required hereunder, and a description of all efforts made to mitigate those delays or anticipated delays. These progress reports shall be submitted to EPA by Respondents by the fifteenth (15) day of every month following the EFFECTIVE DATE of this Order.

64. All work plans, reports, notices and other documents required to be submitted to EPA under this Order shall be sent by certified mail, return receipt requested, by overnight delivery or by courier to the following addressees:

Mr. Stephen Tzhone, Remedial Project Manager
U.S. Environmental Protection Agency, Region 6
Superfund Division (6SF-RA)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Ms. Barbara A. Nann, Assistant Regional Counsel
United States Environmental Protection Agency, Region 6
Superfund Division (6RC-S)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

65. Respondents shall give EPA at least fourteen (14) days advanced notice of all field work or field activities to be performed by Respondents pursuant to this Order.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

66. Upon the occurrence of any event during performance of the work required hereunder which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, Respondents shall immediately orally notify the EPA Project Coordinator (or, in the event of the unavailability of the EPA Project Coordinator, the Branch Chief of the Response and Prevention Branch of EPA Region VI), in addition to the reporting required by Section 103. Within fourteen (14) days of the onset of such an event, Respondents shall also furnish EPA with a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto. The reporting requirements of this paragraph are in addition to, not in lieu of, reporting under Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004.
67. In the event of any action or occurrence during Respondents' performance of the requirements of this Order which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the

environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize the threat and shall immediately notify EPA as provided in the preceding paragraph. Respondents shall take such action in accordance with applicable provisions of this Order including, but not limited to, the Health and Safety Plan. In the event that EPA determines that (a) the activities performed pursuant to this Order, (b) significant changes in conditions at the Site, or (c) emergency circumstances occurring at the Site pose a threat to human health or the environment, EPA may direct Respondents to stop further implementation of any actions pursuant to this Order or to take other and further actions reasonably necessary to abate the threat.

68. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

XIV. MODIFICATION OF THE WORK PLANS

69. If at any time during the RI/FS process, Respondents identify a need for additional data, a memorandum documenting the need for additional data shall be submitted to the EPA Project Coordinator within twenty (20) days of identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into reports and deliverables.
70. In addition to the authorities in the NCP, in the event that EPA determines that unanticipated or changed circumstances at the Site, or conditions posing an immediate threat to human health or welfare or the environment, warrant changes in the RI/FS Work Plans, EPA will modify or amend, or direct Respondents to modify or amend, the RI/FS Work Plans accordingly. Respondents shall implement the RI/FS Work Plans as modified or amended.
71. EPA may determine that in addition to tasks defined in the approved RI/FS Work Plans, other additional work may be necessary to accomplish the objectives of the RI/FS. EPA may require, pursuant to this Order, that the Respondents perform these response actions in addition to those required by the RI/FS Work Plans, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS. Respondents shall implement the additional tasks which EPA determines are necessary. The additional work shall be completed according to the standards, specifications and schedule set forth or approved by EPA in written modifications to the RI/FS Work Plans or written Work Plan supplements. EPA reserves the right to conduct the work itself at any point, to seek reimbursement for the costs associated with the work from Respondents, and/or to seek any other appropriate relief.

XV. FINAL RI/FS, PROPOSED PLAN, PUBLIC COMMENT, RECORD OF DECISION, ADMINISTRATIVE RECORD

72. EPA retains the responsibility for the release to the public of the RI and FS reports. EPA retains responsibility for the preparation and release to the public of the proposed remedial action plan and record of decision in accordance with CERCLA and the NCP.
73. EPA will provide Respondents with the final RI and FS reports (to the extent that Respondents do not already have these reports), proposed remedial action plan, and record of decision.
74. EPA will assemble the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which selection of the remedial action may be based. Respondents shall provide copies of plans, task memoranda including documentation of field modifications, recommendations for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports, and other reports. Respondents shall additionally submit any records of communications between Respondents and state, local or other federal authorities concerning the implementation of this Order or selection of the response action.

XVI. PROJECT COORDINATORS, OTHER PERSONNEL

75. EPA has designated the following individual as its Project Coordinator with respect to the Site:

Mr. Stephen Tzhone, Remedial Project Manager
U.S. Environmental Protection Agency, Region 6
Superfund Division (6SF-RA)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733
(214) 665-8409, FAX (214) 665-6660

Not later than fourteen (14) days after the EFFECTIVE DATE of this Order, Respondents shall select their own Project Coordinator and shall notify EPA in writing of the name, address, qualifications, job title and telephone number of that Project Coordinator. He or she shall have technical expertise sufficient to adequately oversee all aspects of the work contemplated by this Order. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. EPA retains the right to disapprove of any designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within ten (10) calendar days following EPA's disapproval. Respondents' and EPA's Project Coordinators shall be responsible for overseeing the implementation of this Order and shall coordinate communications between EPA and Respondents. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents. EPA and Respondents may change their respective Project Coordinators. Such a change shall be accomplished by notifying the other parties in writing at least ten (10) days prior to the change where possible, and

concurrently with the change or as soon thereafter as possible in the event that advance notification is not possible.

76. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager and On-Scene Coordinator by the NCP. In addition, EPA's Project Coordinator shall have the authority, consistent with the NCP, to halt any work required by this Order, and to take any necessary response action when he/she determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Order shall not be cause for the stoppage or delay of work.
77. All activities required of Respondents under the terms of this Order shall be performed only by qualified persons possessing all necessary permits, licenses, and other authorizations required by applicable law.

XVII. OVERSIGHT

78. During the implementation of the requirements of this Order, Respondents and their contractors and subcontractors shall be available for such conferences and inspections with EPA as EPA may determine are necessary for EPA to adequately oversee the work being carried out and/or to be carried out.
79. Respondents and their employees, agents, contractors, representatives and consultants shall cooperate with EPA in its efforts to oversee Respondents' implementation of this Order.

XVIII. SAMPLING, ACCESS AND DATA AVAILABILITY/ADMISSIBILITY

80. All sampling and analyses performed pursuant to this Order shall conform to EPA direction and approval regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondent shall follow the following documents as appropriate as guidance for QA/QC and sampling: "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures," OSWER Directive Number 9360.4-01; "Environmental Response Team Standard Operating Procedures," OSWER Directive Numbers 9360.4-02 through 9360.4-08.
81. Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by EPA for quality-assurance monitoring. Respondent shall provide to EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondent shall only use laboratories that have a documented quality system which complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard,

January 5, 1995) and “EPA Requirements for Quality Management Plans (QA/R-2)” (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditations Program (NELAP) as meeting the quality system requirements.

82. If any area to which access is necessary to perform work under this Order is owned in whole or in part by parties other than Respondents, Respondents shall obtain, or use their best efforts to obtain, access agreements from the present owner(s) within thirty (30) days of the EFFECTIVE DATE of this Order. Such agreements shall provide access for EPA and their contractors and oversight officials, and the Respondents or their authorized representatives, and agreements for such access shall specify that Respondents are not EPA's representatives with respect to liability associated with Site activities. Copies of such agreements shall be provided to EPA upon request prior to Respondents' initiation of field activities. If access agreements are not obtained within the time referenced above, Respondents shall immediately notify EPA of their failure to obtain access. EPA may, in its sole discretion, obtain access for Respondents, perform those tasks or activities with EPA contractors, or terminate this Order in the event that Respondents cannot obtain access agreements. In the event that EPA performs those tasks or activities with EPA contractors and does not terminate this Order, Respondents shall perform all other activities not requiring access to the given property. Respondents additionally shall integrate the results of any such tasks undertaken by EPA into their reports and deliverables.
83. At all reasonable times, EPA and its authorized representatives shall have the authority to enter and freely move about all property at the Site and off-Site areas where work, if any, is being performed, for the purposes of inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Site or Respondents and their contractor pursuant to this Order; reviewing the progress of the Respondents in carrying out the terms of this Order; conducting tests as EPA or its authorized representatives deem necessary; using a camera, sound recording device or other documentary type equipment; and verifying the data submitted to EPA by Respondents. All parties with access to the Site under this paragraph shall comply with all approved health and safety plans.
84. All data, records, photographs and other information created, maintained or received by Respondents or their agents, contractors or consultants in connection with implementation of the work under this Order, including but not limited to contractual documents, quality assurance memoranda, raw data, field notes, laboratory analytical reports, invoices, receipts, work orders and disposal records, shall, without delay, be made available to EPA on request. EPA shall be permitted to copy all such documents and other items.
85. Upon request by EPA or its designated representatives, Respondents shall provide EPA or its designated representatives with duplicate and/or split samples of any material sampled in connection with the implementation of this Order, or allow EPA or its designated representatives to take such duplicate or split samples.

86. Respondents may assert a claim of business confidentiality under 40 C.F.R. § 2.203, covering part or all of the information submitted to EPA pursuant to the terms of this Order, provided such claim is allowed by section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated at the time the claim is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondents.
87. Notwithstanding any other provision of this Order, EPA hereby retains all of its information gathering, access and inspection authority under CERCLA, the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6991, and any other applicable statute or regulation.

XIX. OTHER APPLICABLE LAWS

88. Respondents shall comply with all laws that are applicable when performing the RI/FS. No local, state, or federal permit shall be required for any portion of the work, including studies, required hereunder which is conducted entirely on-Site, where such work is carried out in compliance with Section 121 of CERCLA; however, Respondents must comply with the substantive requirements that would otherwise be included in such permits. For any work performed pursuant to this Order which is not "on-site", as defined in Sections 300.5 and 300.400(e) of the NCP, Respondents shall obtain all permits necessary under applicable laws and shall submit timely applications and requests for any such permits. This Order is not, nor shall it act as, a permit issued pursuant to any federal or state statute or regulation.

XX. RECORD PRESERVATION

89. All records and documents in Respondents' possession that relate in any way to the Site shall be preserved during the conduct of this Order and for a minimum of ten (10) years after commencement of construction of any remedial action which is selected following the completion of the RI/FS. Respondents shall acquire and retain copies of all documents that relate to the Site and are in the possession of its employees, agents, accountants, contractors, or attorneys. After this 10-year period, Respondents shall notify EPA at least ninety (90) days before the documents are scheduled to be destroyed. If EPA requests that the documents be saved, Respondents shall, at no cost to EPA, give the documents or copies of the documents to EPA.

XXI. COMMUNITY RELATIONS

90. Respondents shall cooperate with EPA in providing information relating to the work required hereunder to the public. To the extent requested by EPA, Respondents shall participate in the preparation of all appropriate information disseminated to the public and make presentations at, and participate in, public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

XXII. DELAY IN PERFORMANCE

91. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondents under the terms of this Section shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondents' obligations to perform all obligations fully under the terms and conditions of this Order.
92. Respondents shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's Project Coordinator within forty-eight (48) hours after Respondents first knew or should have known that a delay might occur. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within five (5) business days after notifying EPA by telephone, Respondents shall provide written notification fully describing the nature of the delay, any justification for the delay, any reason why Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that have been or will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order are not a justification for any delay in performance.

XXIII. ASSURANCE OF ABILITY TO COMPLETE WORK

93. Respondents shall demonstrate their ability to complete the Work required by this Order and to pay all claims that arise from the performance of the Work by obtaining and presenting to EPA within ninety (90) days of the EFFECTIVE DATE of this Order, one of the following; (1) a performance bond; (2) a letter of credit; (3) a guarantee by a third party; or (4) internal financial information to allow EPA to determine that Respondents have sufficient assets available to perform the Work. Respondents shall demonstrate financial assurance in an amount no less than the estimate of cost for the RI/FS for the Site. If Respondents seek to demonstrate ability to complete the RI/FS by means of internal financial information, or by a guarantee of a third party, they shall resubmit such information annually, on the anniversary of the EFFECTIVE DATE of this Order. If EPA determines that such financial information is inadequate, Respondents shall, within thirty (30) days after receipt of EPA's notice of determination, obtain and present to EPA for approval additional financial assurances consistent with this paragraph.
94. At least seven (7) days prior to commencing any work at the Site pursuant to this Order, Respondents shall submit to EPA a certification that Respondents or their contractors and subcontractors have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order.

XXIV. UNITED STATES NOT LIABLE

95. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States may be deemed to be a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XXV. ENFORCEMENT AND RESERVATIONS

96. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States in connection with the Site. This reservation shall include but not be limited to past costs, future costs, direct costs, indirect costs, the costs of oversight, as well as accrued interest as provided in Section 107(a) of CERCLA.
97. Notwithstanding any other provision of this Order, at any time during the RI/FS, EPA may perform its own studies, complete the RI/FS (or any portion of the RI/FS) as provided in CERCLA and the NCP, and seek reimbursement from Respondents for its costs, or seek any other appropriate relief.
98. Nothing in this Order shall preclude EPA from taking any additional enforcement actions, including modification of this Order or issuance of additional orders, and/or additional remedial or removal actions as EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, or any other applicable law.
99. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA and any other applicable statutes or regulations.
100. Respondents shall be subject to civil penalties under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), of not more than \$37,500 for each day in which they willfully violate, or fail or refuse to comply with this Order without sufficient cause. This penalty amount is subject to possible further adjustments consistent with the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321 (1996), and the regulations promulgated thereunder, including the Civil Monetary Penalty Inflation Adjustment Rule, 69 Fed. Reg. 7121 (February 13, 2004), 40 C.F.R. Part 19.4. In addition, failure to properly carry out response actions under this Order, or any portion hereof, without sufficient cause, may result in liability under Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at least equal to, and not more than three times the amount of, any costs incurred by EPA as a result of such failure to take proper action.

101. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person for any liability it may have arising out of or relating in any way to the Site. Nothing herein shall constitute a finding that Respondents are the only responsible parties with respect to the release and threatened release of hazardous substances at or from the Site.
102. If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XXVI. EFFECTIVE DATE AND COMPUTATION OF TIME

103. This Order shall be effective upon the date of signature by the Region 6, U.S. EPA Superfund Division Director or his designated delagatee.

XXVII. OPPORTUNITY TO CONFER

104. Respondents may, within seven (7) days after receipt of this Order, request a conference with EPA to discuss this Order. If requested, the conference shall occur within seven (7) days of Respondents' request for a conference.
105. The purpose and scope of the conference shall be limited to issues involving the implementation of the Work required by this Order and the extent to which Respondents intend to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondents a right to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to Respondents' request, Respondents may appear in person or by an attorney or other representative.
106. Requests for a conference must be by telephone to Barbara A. Nann, Assistant Regional Counsel, EPA Region VI, telephone (214) 665-2157, followed by written confirmation mailed that day to Ms. Nann and the EPA Project Coordinator at the addresses set forth in Paragraph 54 of this Order.

XXVIII. TERMINATION AND SATISFACTION

107. This Order will be terminated by EPA if Respondents demonstrate in writing and certify to the satisfaction of EPA that all Work and activities required under this Order have been performed fully in accordance with this Order and EPA has approved the certification in writing. Such an approval by EPA, however, shall not relieve Respondents of any remaining obligations under the Order, including those requirements set forth in Section XX regarding record preservation. Respondents' written submission under this paragraph shall include a sworn statement by a responsible official(s) of the

Respondents which states the following: "I certify that the information contained in or accompanying this submission is true, accurate and complete."

U.S. ENVIRONMENTAL PROTECTION AGENCY

IT IS SO ORDERED

U.S. Environmental Protection Agency

BY: _____ DATE: _____

Samuel Coleman, P.E.
Director
Superfund Division, Region 6

APPENDIX A

LIST OF POTENTIALLY RESPONSIBLE PARTIES SAN JACINTO RIVER WASTE PITS SUPERFUND SITE

1. International Paper Company, Inc.

C T Corporation System
Registered Agent for International
Paper Company
800 S. Gay Street, Suite 2021
Knoxville, TN 37929-9710

International Paper Company, Inc.
c/o Champion Paper
3020 Dow Center
Midland, MI 48674

2. McGinnes Industrial Maintenance Corporation

C T Corporation System
Registered Agent for McGinnes
Industrial Maintenance Corporation
350 N. St. Paul Street
Dallas, Texas 77002

McGinnes Industrial Maintenance
Corporation
2859 Paces Ferry Road, Suite 1600
Atlanta, Georgia 30339

APPENDIX B

SAN JACINTO RIVER WASTE PITS SUPERFUND SITE SITE MAP

ATTACHMENT 1

STATEMENT OF WORK (SOW)